

R865. Tax Commission, Auditing.

R865-9I. Income Tax.

R865-9I-13. Nonresident's Share of ~~[Partnership or Limited Liability Company]~~ Pass-Through Entity Income Pursuant to Utah Code Ann. Sections 59-10-116, 59-10-117, 59-10-118, 59-10-1403.2, and 59-10-1405.

~~[(1) Nonresident partners and nonresident members shall keep adequate records to substantiate their determination or to permit a determination by the commission of the part of their adjusted gross income that was derived from or connected with sources in this state.~~

~~-(2) Partnerships and limited liability companies may file form TC-65, Utah Partnership/Limited Liability Company Return of Income, as a composite return on behalf of nonresident partners or nonresident members that meet all of the following conditions:~~

~~(a) Nonresident partners or nonresident members included on the return may not have other income from Utah sources. Resident partners and resident members may not be included on the composite return.]~~

(1) The provisions of this rule apply to a pass-through entity that is not an S corporation. For provisions that apply to a pass-through entity that is an S corporation, see rule R865-9I-54.

~~[(b)](2) A schedule shall be included with the return listing [all nonresident partners or nonresident members included in the composite filing. The schedule shall list] all of the following information for each nonresident [partner or nonresident member] pass-through entity taxpayer:~~

~~[(i)](a) name;~~

~~[(ii)](b) address;~~

~~[(iii)](c) social security number;~~

~~[(iv)](d) percentage of [partnership or limited liability company] ownership in pass-through entity income;~~

~~[(v)](e) Utah income attributable to that [partner or member] pass-through entity taxpayer.~~

~~[(c) Nonresident partners or nonresident members that are entitled to mineral production tax withholding credits, agricultural off-highway gas tax credits, or other Utah credits, may not be included in a composite filing, but must file form TC-40NR, Nonresident or Part-year Resident Form Individual Income Tax Return.]~~

(3) [The tax shall be computed using] A pass-through entity shall calculate the tax it withholds on behalf of its nonresident pass-through entity taxpayers by:

(a) multiplying the income of the pass-through entity attributable to nonresident pass-through entity taxpayers by the tax rate [imposed in accordance with] in effect under Section 59-10-104; and

(b) subtracting from the amount calculated in Subsection (4)(a) any amounts withheld from the pass-through entity under Section 59-6-102 attributable to nonresident pass-through entity taxpayers.

(4) The [partnership's or limited liability company's] pass-through entity's federal identification number shall be used on the form TC-65 in place of a social security number.

KEY: historic preservation, income tax, tax returns, enterprise zones